

## REMARKS

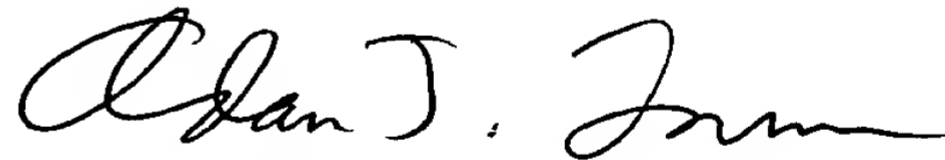
Claim 1 has been amended. New claims 40-47 have been added to the application. Applicant notes that claims 10-39 have been cancelled from the application without prejudice in response to the outstanding Restriction Requirement. Claims 1-9 and 40-47 are now pending in the application.

The amendment made to claim 1 was for the purposes of form and clarity only, and not for reasons related to the patentability of the claimed subject matter. The subject matter of the new claims are supported by the specification, and no new matter has been added by way of this preliminary amendment. Accordingly, Applicant requests that this amendment be entered into the record of the above captioned application.

It is Applicant's belief that no fees are due for the filing of this Amendment. If, however, any fees are deemed necessary, the Commissioner is hereby authorized to charge such fees for this or any other communication to Deposit Account No. 17-0055.

Respectfully submitted,

MARK A. LUCAK, ET AL.



Adam J. Forman  
Reg. No. 46,707  
Attorney for Applicant  
Quarles & Brady, LLP  
411 East Wisconsin Avenue  
Milwaukee WI 53202  
(414) 277-5405

MKE\5312215.doc

VERSION OF CLAIMS WITH MARKINGS TO SHOW CHANGES MADE

1. (Once Amended) A method of fabricating a MEMS structure, comprising the steps of:

- (a) forming a recess in an upper surface of a substrate;
- (b) attaching an etchable wafer to the upper surface of the substrate, including a wafer portion from which a movable structure will be formed, the wafer portion being positioned over the recess [recessed]; and
- (c) etching downward in the wafer around the periphery of the movable portion to break through in to the recess, thereby releasing at least part of the movable structure from the substrate without the need for substantial undercutting.

40. (New) The method as recited in claim 1, wherein step (c) further comprises forming a first stationary conductive element extending outwardly from the substrate.

41. (New) The method as recited in claim 1, wherein step (c) further comprises forming a variable size gap between the movable structure and the stationary conductive element.

42. (New) The method as recited in claim 40, further comprising the step of forming an intermediate layer between the stationary conductive element and the substrate, wherein the intermediate layer is selected from the group consisting of silicon, poly-crystalline silicon, amorphous silicon, silicon carbide and gallium arsenide.

43. (New) The method as recited in claim 1, further comprising the step of forming a base layer that forms a lower surface of the movable structure.

44. (New) The method as recited in claim 43, wherein the base layer is selected from the group consisting of silicon dioxide and silicon nitride.

45. (New) The method as recited in claim 1, wherein the recess has beveled outer edges.

46. (New) The method as recited in claim 40, wherein step (c) further comprises forming a second stationary conductive element extending outwardly from the substrate, wherein the movable structure is disposed between the first and second stationary conductive elements.

47. (New) The method as recited in claim 46, wherein the first and second stationary conductive elements are electrically isolated from each other.